

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JACK STEPHEN PURSLEY,

Defendant.

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Case 4:18-cr-00575

DEFENDANT’S RESPONSE TO GOVERNMENT’S EXPERT WITNESS NOTICE

TO THE HONORABLE COURT:

COMES NOW, JACK STEPHEN PURSLEY (“Defendant” or “Pursley”), by and through undersigned counsel, Michael Louis Minns and Ashley Blair Arnett, and files this Response to the Government’s Expert Witness Notice.

Pursley has no objection to the Government’s use of a summary expert witness or the use of summary charts—assuming, that the defense is afforded the same opportunity and the Government timely provides reports and charts.

Defendant also requests that the Government comply in its entirety with Federal Rule of Evidence 1006, including by ensuring that all documents that will be summarized have been provided to the defense. *See United States v. Apodaca*, 666 F.2d 89, 95, 95 n.16 (5th Cir. 1982) (“recognize[ing] the problems associated with permitting the presentation of a summary of the evidence in a criminal case,” which “enables the government to invade the province of the jury” by the “witness’s attempt to evaluate the evidence”; citing cases). Obviously, the Government abuses its opportunity if they seek to hide the documents in this complex case and avoid giving Pursley time to review them. At this point Pursley does not have sufficient notice to prepare and

we are nearing the eve of trial. The Government is also not entitled to use its “witness” to offer an interim “closing argument” from the stand.

Defendant requests if the Government is allowed a “summary expert witness” that the Court will instruct the jury that any summary witness or summary exhibit is not evidence. United States v. Armstrong, 619 F.3d 380 (5th Cir. 2010); United States v. Gray, 507 F.2d 1013 (5th Cir. 1975).

Respectfully submitted on October 22, 2018

MINNS & ARNETT

/s/ Ashley Blair Arnett
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CERTIFICATE OF SERVICE

This is to certify that on this the 22nd day of October 2018, a true and correct copy of the above and foregoing instrument was served upon all counsel of record.

/s/ Ashley Blair Arnett
Ashley Blair Arnett